

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

In re: WC 4811 SOUTH CONGRESS, LLC ¹ Debtors.	Chapter 11 Case No. 20-11105-tmd
WC 4811 SOUTH CONGRESS, LLC Plaintiff, v. 4811 SOCO, LP Defendant.	Adv. Proc. No. 20-[●]

NOTICE OF REMOVAL

TO THE U.S. BANKRUPTCY CLERK:

Pursuant to 28 U.S.C. § 1452(a), Federal Rule of Bankruptcy Procedure 9027, and Local Rule 9027(b), Defendant 4811 SoCo LP (the “Lender”) hereby removes the above-captioned civil action, and all claims and causes of action therein, from the 250th Judicial District Court of Travis County, Texas, to the United States Bankruptcy Court for the Western District of Texas, Austin Division (this “Court”).

I. JURISDICTION AND BASIS FOR REMOVAL

1. On August 31, 2020, WC 4811 Congress, LLC (the “Plaintiff” or “Debtor”) and Affiliated Commercial Services, Inc. (“ACS”) filed a civil action (the “State Court Action”) against the Lender and Bancorpsouth Bank (“Bancorp”), which was assigned to the 250th Judicial

¹ The Debtor in this chapter 11 case, along with the last four digits of its federal tax identification number is: WC 4811 South Congress, LLC (0420).

District Court of Travis County, Cause No. D-1-GN-20-004507. The Debtor's action alleges that the Lender is in breach of the loan agreements at issue in the bankruptcy case. Further, the Debtor alleges that the Lender committed fraud by "secretly working with" the predecessor lender "to use confidential information on the terms of the loan between the parties to effectuate a loan sale." *See* Petition, No. D-1-GN-20-004507, at ¶ 18.

2. On September 8, 2020, the Debtor nonsuited Bancorp and on September 10, 2020, ACS nonsuited both defendants. The Lender and the Debtor are now the only parties to the State Court Action, which is styled *WC 4811 South Congress, LLC, v. 4811 SoCo, LP*. The Lender answered the Debtor's petition on September 21, 2020.

3. On October 6, 2020 (the "Petition Date"), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the case styled *In re WC 4811 South Congress LLC*, No. 20-11105-tmd.

4. Removal of the State Court Action is proper under 28 U.S.C. § 1452. The section provides, in relevant part:

A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

28 U.S.C. § 1452(a). The State Court Action is a qualifying civil action, and the filing of the Debtor's chapter 11 case gave the U.S. District Court for the Western District of Texas jurisdiction over all civil proceedings "arising under title 11, or arising in or related to [the Debtor's case] under title 11." 28 U.S.C. § 1334(b).

5. This Court has jurisdiction over the State Court Action because the proceedings are related to and arise in the Debtor's bankruptcy case. The State Court Action is a core proceeding under 28 U.S.C. § 157(b)(2).

6. Venue is proper under 28 U.S.C. § 1452(a) and Federal Rule of Bankruptcy Procedure 9027 because this district encompasses the court where the State Court Action is pending. Local Rule 9027(b)(1) specifies that a notice of removal under 28 U.S.C. § 1452(a) should be filed with the Clerk of the Bankruptcy Court. The Lender consents to the entry of final orders or judgment by this Court upon removal.

7. All pleadings, process, orders, and other filings in the State Court Action have been filed as exhibits to this Notice of Removal, according to Bankruptcy Rule 9027(a) and Local Rule 9027(b)(2). Notice will be served on the Debtor through its counsel of record and will be filed with the Clerk of the State Court.

8. This Notice of Removal is timely under Federal Rule of Bankruptcy Procedure 9027(a)(2) because it is filed with this Court within (90) days of the order of relief.

Dated: October 9, 2020

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served (i) electronically on the parties registered to receive notice through the court's ECF noticing system on October 9, 2020; and (ii) via electronic mail where available, otherwise by regular U.S. mail, postage prepaid, on the parties listed on the attached Master Service List on October 9, 2020.

/s/ Jason G. Cohen
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